

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19365
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On February 7, 2006, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable years 2002 and 2003 in the total amount of \$4,356.

On April 10, 2006, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but chose to provide additional information for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Commission's records showed that the taxpayer stopped filing Idaho individual income tax returns after filing her 2000 Idaho income tax return. The Tax Discovery Bureau (Bureau) sent the taxpayer a letter asking about her requirement to file Idaho individual income tax returns for 2001 through 2003. The taxpayer did not respond to the Bureau's letter. The Bureau obtained information from the Internal Revenue Service and determined the taxpayer did have a requirement to file Idaho individual income tax returns for the tax years 2002 and 2003. The Bureau prepared returns for the taxpayer and sent her a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination. The taxpayer stated that the law must totally support a tax and absolutely require the filing of a return for the tax. She stated that she believed Idaho's law does that; however, Idaho's law flies in the face of federal law which clearly

prohibits a state from imposing a tax on the securities her income is based upon. The taxpayer cited section 3124 of Title 31 of the United States Code that exempts United States' obligations from state taxation. She then cited section 8 of Title 18 that defines "obligation or other security of the United States" to include Federal Reserve notes. The taxpayer stated that every amount of money that passes through her hands is based on or converted to or is a Federal reserve note. She stated that, according to federal law, Federal reserve notes are an obligation or other security of the United States and the law clearly prohibits states from imposing a tax against such security upon an individual.

The Bureau referred the matter for administrative review. The Tax Commission reviewed the taxpayer's position and sent her a letter giving her two options for having the Notice of Deficiency Determination redetermined. The taxpayer responded that she would like to submit additional information for the Tax Commission to consider. Through additional correspondence, the taxpayer restated her position that she is firm in her resolution that the Federal reserve notes she carries represent an obligation of the United States and as such are exempt from state tax as provided in 31 USC 3124.

The taxation of United States obligations has been the subject of numerous court decisions over the years. The theory behind the tax exempt status of United States obligations lies in the clause of the Constitution that authorizes Congress to "borrow money on the credit of the United States." It is well established that Congress has the power and authority to exempt obligations of the United States if Congress felt their usefulness and value as a means to the exercise of the functions of the government would be injuriously affected by state taxation.

In 1868, the Supreme Court of the United States heard a case on the exempt status of the legal tender of the time. The Appeals Court in Bank of New York v. Board of Supervisors, 37

N.Y. 21, (1867), determined, "that legal tender notes are not exempt from state taxation; that they are not loans to the United States, and that there is no declaration of congress requiring their exemption. They are in no sense loans or the representatives of loans. They are currency, the medium by which purchases are made or debts are paid, involving no idea of borrowing or lending." This decision was reversed by the Supreme Court in Bank v. Supervisors, 74 U.S. 26, (1868). However, the Court's findings did not rest on the fact that the legal tender notes were constitutionally exempt in and of themselves, but rather it held that Congress had the constitutional power to exempt those notes and did in fact exempt them.

The Supreme Court's decision in Supervisors apparently was not what Congress intended or there may have been pressure from the states to legislatively reverse the Court's decision. In the Act of August 13, 1894, Congress in fact did reverse the effect of the Court's decision by enacting a statute that allowed such notes to be taxed by the states. See 28 Stat. 278, Sec. 1, 31 U.S.C. s 425, 31 U.S.C. Sec. 5154 (revised). United States Code Title 31 section 5154 states:

A State or territory or possession of the United States may tax United States coins and currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) as money on hand or on deposit in the same way and at the same rate that the State, territory, or possession taxes other forms of money. This section does not affect a law taxing national banks.

Title 31 section 5103 of the United States Code defines legal tender as including Federal reserve notes. Since Federal reserve notes are the legal tender and currency of the United States and Congress has removed any tax exempt status they may have enjoyed being obligations of the United States, Idaho can tax the taxpayer's income even though it is based upon, converted to, or is Federal reserve notes.

The taxpayer did not provide anything to show the returns prepared by the Bureau were incorrect. A State Tax Commission deficiency notice is presumed to be correct, and the burden

is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The taxpayer did not meet her burden. Therefore, the Tax Commission upholds the Bureau's determination of the taxpayer's Idaho income tax liability.

The Bureau added interest and penalty to the taxpayer's Idaho tax. The Tax Commission reviewed those additions and found they were appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated February 7, 2006, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2002	\$1,906	\$477	\$472	\$2,855
2003	1,201	300	234	<u>1,735</u>
			TOTAL DUE	<u>\$4,590</u>

Interest is calculated to June 15, 2007.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's right to appeal this decision is included with this decision.

DATED this _____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]
[REDACTED]

Receipt No.
